

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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KEVIN DAVIS,

Plaintiff,

-against-

WILDE BRANDS INC.,

Defendant.
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USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: <u>7/22/2021</u>
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21-CV-5250 (VSB)

ORDER OF DISMISSAL


VERNON S. BRODERICK, United States District Judge:

Plaintiff filed this action on June 14, 2021, (Doc. 1), and filed an affidavit of service on June 28, 2021, (Doc. 5). The deadline for Defendant to respond to Plaintiff's complaint was July 12, 2021. (*See* Doc. 5.) On July 14, 2021, I entered an Order directing Plaintiff to move for a default judgment by July 21, 2021, or risk having this case dismissed for failure to prosecute. (Doc. 6.) To date, no action has been taken in this case and Plaintiff has demonstrated no intent to prosecute this action.

Accordingly, this action is dismissed without prejudice for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). *See Link v. Wabash R.R. Co.*, 370 U.S. 626, 632 (1962) ("The authority of a court to dismiss sua sponte for lack of prosecution has generally been considered an inherent power . . . necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases." (internal quotation marks omitted)); *LeSane v. Hall's Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001) ("Although the text of Fed. R. Civ. P. 41(b) expressly addresses only the case in which a defendant moves for dismissal of an action, it is unquestioned that Rule 41(b) also gives the district court authority to dismiss a

plaintiff's case *sua sponte* for failure to prosecute.”). The Clerk of Court is respectfully directed to close this case.

Dated: July 22, 2021
New York, New York


VERNON S. BRODERICK
United States District Judge